IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1572 of 2000

to

FIRST APPEALNo 1585 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

LAXMANBHAI CHELDAS PATEL

Appearance:

MR ARUN D OZA, ld. GOVERNMENT PLEADER for appellants

MR AJ PATEL for Respondents

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA
Date of decision: 18/01/2001

COMMON ORAL JUDGEMENT
(Per : MR.JUSTICE M.R.CALLA)

All these 14 First Appeals under Sec.54 of the Land Acquisition Act, 1894 read with Sec.96 of the Code of Civil Procedure are directed against the common judgment and order dated 2nd Dec.1999 passed by the 2nd Extra Assistant Judge and Special Judge (LAR), Ahmedabad (Rural) at Mirzapur, Ahmedabad in Land Acquisition Reference Cases No. 1965 of 1996 to 1978 of 1996, the Reference No.1965 of 1996 being the case.

2. The lands of village Bhankoda, Tal. Viramgam, Dist. Ahmedabad, the particulars of which are given in para 2 of the impugned judgment, were sought to be acquired for the purpose of construction of Narmada Project, Goraiya Branch Canal, on the basis of the letter sent by the Executive Engineer, Narmada Project, Mehsana. For this purpose, the notification under Sec.4 was issued on 19th Dec.1992 and the notification under Sec.6 was issued on 20th Sept.1993. The land owners claimed compensation at the rate of Rs.20/= per sq.mtr. Against this claim, the Land Acquisition Officer awarded compensation at the rate of Re.0.97/= per sq.mtr. and Rs.1.45/= per sq.mtr. on 21st Nov.1995. Against this order of the Land Acquisition Officer, the matter was taken in reference before the Reference Court and the Reference Court has awarded compensation to be paid at the additional rate of Rs.11/= per sq.mtr. over and above the rates as had been decided by the Land Acquisition Officer. The Reference Court had passed the common order on 2nd Dec.1999 deciding the 14 Land Acquisition Reference Cases Nos. 1965 to 1978 of 1996 and held the claimants to be entitled to get a sum of Rs.11/= per sq.mtr. for the acquired lands in addition to and over and above the rates at which the compensation was directed to be paid by the Land Acquisition Officer along with other allied reliefs regarding Solatium and running interest etc. It is this common order dated 2nd Dec.1999 which has been made the subject matter of challenge in these 14 First Appeals.

3. The only argument raised by Mr.Arun D.Oza, ld. Govt. Pleader in all these 14 appeals is that even if as per Exh.43 which was a previous order in Land Acquisition

Case No.602 of 1987 pertaining to village Rampur is taken as the basis wherein the compensation was directed to be paid at the rate of Rs.5.30/= per sq.mtr. because Rampur is a village adjoining to Bhankoda, the date of the notification under Sec.4 in case of village Rampur being 1.9.1983, there is a difference of about nine years in the date of the notification under Sec.4, in the present case i.e. 19th Dec.1992, in the case of non-irrigated land, the rate comes to Rs.10/= only and in the case of irrigated lands, it would come to about Rs.11/= only and therefore, the award of Rs.11/= per sq.mtr. in addition to and over and above the rate at which it was granted by the Land Acquisition Officer is wrong and excessive.

4. We have gone through the impugned award, the deposition of Jagdishchandra Chimanlal Shah at Exh.44, the copy of the judgment in Land Acquisition Case No.602 of 1987 at Exh.43 relating to village Rampur, i.e. a village adjoining to Bhankoda, deposition of Dahyabhai Naranbhai Patel at Exh.46, i.e. Executive Engineer, Narmada Project, copies of the other awards at Exh.14 & 48, the Village Form No. 7/12 at Exh.18 to 37 and Exh.52 to 71. Mr.A.J.Patel appearing on behalf of the claimants has submitted that the 10% increase as has been submitted by the ld.Govt. Pleader is at the flat rate. His contention is that the 10% increase is to be considered from year to year and not for the entire period of nine years and in that case, it will come to more than Rs.11/= per sq.mtr.for non-irrigated lands and it would come to Rs.14/= per sq.mtr. in the case of irrigated lands and as such, no exception can be taken to the rate at which the compensation has been directed to be paid, i.e. Rs.11/= per sq.mtr. in addition to and over and above the rate at which it was granted by the Land Acquisition Officer. The submission of learned Counsel Mr.Patel is not without force and in the facts of the present case, after considering the material and evidence available on record to which a brief reference has been made hereinabove, we find that the rate at which the Reference Court has granted the compensation, i.e. at the rate of Rs.11/= per sq.mtr. in addition to and over and above the rates at which it was granted by the Land Acquisition Officer, i.e. Re.0.97/= per sq.mtr. in case of non-irrigated lands and Rs.1.45/= per sq.mtr. in case of irrigated lands is just and proper and does not warrant any interference by this Court. It was a case of very petty dues and we find that it is not a case worth interference in these First Appeals.

5. We do not find any merit in any of these appeals. All these 14 First Appeals are hereby dismissed. No

order as to costs.

6. It is expected that the due amount of compensation in terms of the order passed by the Reference Court, shall be paid within a period of three months from the date the certified copy of this order is produced before the concerned authorities.

(M.R. Calla, J.)

(J.R. Vora, J.)

Sreeram.